Prosperous Communities Committee	
Tuesday 20 October 2020	

Subject: Consultation Response to Planning for the Future White Paper

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Purpose / Summary:	To update Prosperous Communities Committee on the content of the recent White Paper consultation from Central Government on reforming the planning system. To seek agreement to the proposed response to the consultation put forward as part of this report,

RECOMMENDATION(S):

(a) Members are asked to endorse the conclusions of the report and the suggested response to each question.

(b) Delegated authority be granted to the Assistant Director of Planning and Regeneration, Projects and Growth in consultation with the Chair of Prosperous Communities Committee to finalise and submit the response, on behalf of West Lindsey District Council, in the line with the content of this report and any comments made throughout the debate.

IMPLICATIONS

Legal:

None

Financial : FIN/87/21/TJB

Whilst there are potential financial implications for the authority if the White Paper becomes national policy, there are no financial implications in making the response to this consultation.

However, the consultation does propose a number of initiatives which may have a detrimental financial impact;

Automatic refunds of planning fees if determination deadlines not met

Application fee refunded if Planning permission approved on appeal

Potential loss of income from developer contributions if a threshold is set for any new levy, replacing S106 and the Community Infrastructure Levy (CIL).

Statutory Planning Fees were last increased in January 2018 by 20% (previous increase 2012). The total budgeted income from Planning Fees is £950k.

Staffing :

Whilst there are potential resource implications for the authority if the White Paper becomes national policy, there are no resource implications in making the response to this consultation.

Equality and Diversity including Human Rights :

NB: Please explain how you have considered the policy's impact on different groups (for example: young people, elderly, ethnic minorities, LGBT community, rural residents, disabled, others).

Data Protection Implications :

None

Climate Related Risks and Opportunities :

Whilst there are potential implications for how the Local Planning Authority plans for and manages development in the future and as a consequence of this White Paper becoming national policy, there are no climate related implications in making the response to this consultation.

Section 17 Crime and Disorder Considerations :

None

Health Implications:

None

Title and Location of any Background Papers used in the preparation of this report:

Wherever possible please provide a hyperlink to the background paper/s

If a document is confidential and not for public viewing it should not be listed.

Risk Assessment :

N/A

Call in and Urgency:

Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman) **Yes** ☐ **No** ☐

Key Decision:

A matter which affects two or more wards, or has significant financial implications **Yes** ☐ **No** ☐

Executive Summary

The 'Planning for the future' White Paper was published in early August and sees significant changes at both Policy and Development Management stages. The Government have stated it has the potential to alter the planning system more than any previous reforms since the inception of the planning system in 1947.

In the forward to the White Paper, the Prime Minister states that the government's ambition is to create a planning system which is *"simpler, clearer and quicker to navigate, delivering results in weeks and months rather than years and decades"*.

When launching the consultation, Housing Secretary Robert Jenrick MP said: *"Our complex planning system has been a barrier to building the homes people need; it takes 7 years to agree local housing plans and 5 years just to get a spade in the ground… We will cut red tape, but not standards, placing a higher regard on quality, design and the environment than ever before. Planning decisions will be simple and transparent, with local democracy at the heart of the process."*

Since 1947 planning applications in England have been assessed on a case-by-case basis against a long-term local plan, with permission ultimately decided by committee. The new system proposes to diminish this.

Land will instead be classified into three zones within a new Local Plan, with outline planning permission awarded automatically if proposals meet specific criteria within specific zones.

As well as introducing a zonal planning approach the White Paper also seeks to make changes to:

- The development of local plans
- The role of Councillors in Development Management
- Public Engagement
- Developer Contributions
- Design
- Enforcement

The main body of this report looks at these proposals and implications of the White Paper and seeks agreement on the proposed consultation response, appended to this report.

1 Introduction

1.1 The *Planning for the future* White Paper was published with much fanfare in early August as it has the potential to alter the planning system more than many previous reforms since the inception of the planning system in 1947. In the foreword, the Prime Minister makes it clear that Government views the planning system as the root cause of not enough homes being built in the right places – the justification for the proposal to *tear it down and start again.* He also clarifies that these changes will encourage '*sustainable, beautiful, safe and useful development*,' that it will give 'a *greater say over what gets built in your community* and that it *makes it harder for developers to dodge their obligations to improve infrastructure*.' These are all principles that would be welcomed in the planning system. But, as is usually the case, the devil is in the detail!

1.2 The focus of the White paper centres on increasing the availability of new homes. It is widely accepted that there is a shortage of available housing in the UK and there have been a number of attempts in recent years to firstly cite the planning system as the main reason for this shortage, and then to make numerous alterations to both the policy framework and Development Management procedures in an attempt to fix the perceived problem. Despite this context of almost perpetual alteration to the system, authorities across the country approve the overwhelming majority of planning applications and in most cases can do little more to assist in the delivery of more housing.

1.3 There are currently between 800,000 and 1m houses that have been granted planning permission across the country but have not been built out, yet the White Paper consultation proposes radical change to the land use planning system as the means to address what is largely an economic problem.

2 Summary of the key proposals

Zoning

2.1 The White Paper outlines that broadly speaking the planning system should move to one of zoning as happens in some other countries. To this end it proposes the following three categories would apply to all land within a district boundary as part of the local plan allocation process:

2.2 **Growth:** Applications for new homes, hospitals, schools, shops and offices in areas "suitable for substantial development" in Growth zones will be given automatic outline planning permission. Developers will, however, still need to secure reserved matters permission in accordance with locally developed design codes and "site-specific technical issues"

2.3 **Renewal:** Proposals in urban areas (i.e. densification and infill), on brownfield sites and relating to "small sites within or on the edge of villages" will be given "permission in principle"

2.4 **Protection:** Development will not be permitted in protected areas such as the Green Belt and areas of outstanding natural beauty

Local Plan proposals

2.5 The government envisages “an altered role” for local plans, and local authorities will be given 30 months to produce new and intentionally stripped back plans. Failure to meet this deadline will result in some form of sanction.

2.6 All Development Management policy in future will be set nationally with the proposals explicitly stating “the National Planning Policy Framework would become the primary source of policies for development management” if the White Paper was enacted.

2.7 New look local plans will be restricted to zonal allocation of the three categories and the specific codes and standards to be applied to projects in the development zones need to be detailed at this stage.

2.8 Local planning authorities and neighbourhoods (through Neighbourhood Plans) are seen however as having “a crucial role” in producing design guides and codes to “provide certainty and reflect local character and preferences about the form and appearance of development”.

2.9 Local Plans would be subject to a single statutory “Sustainable Development test” replacing the existing tests of soundness.

2.10 As the housing targets will be set nationally they propose to remove the 5 year housing land supply requirement but retain the presumption in favour of sustainable development.

2.11 The White Paper also suggests that Local Plans could be adopted by the authority themselves instead of by the Planning Inspectorate via a public enquiry as happens now.

2.12 The length of documentation should be drastically reduced with the focus being web based maps, and all data should be machine readable to a set national standard.

The role of Councillors and Development Management

2.13 The proposals represent a fundamental change to the planning system officers and members are familiar with by seeking to:

2.14 “Democratise the planning process by putting a new emphasis on engagement at the plan-making stage. At the same time, we will streamline the opportunity for consultation at the planning application stage, because this adds delay to the process and allows a small minority of voices, some from the local area and often some not, to shape outcomes”

2.15 Determination deadlines to be firm deadlines of 8 and 13 weeks and no use of extensions of time as happens now. Automatic refunds of the planning fee if not met. In addition, if applications are refused but then subsequently approved at appeal stage then applicants would also receive an automatic refund of the planning fee.

2.16 Requirement for new, more modular software to enable machine readability of data set to national standard to automate routine processes and speed up the process.

2.17 Restriction of volume of supporting data for major applications to just 50 pages and standard nationally set conditions to be used.

2.18 Delegation of detailed planning decisions to planning officers where the principle of development has been established. This will therefore apply to all areas designated as 'Growth areas' and those areas designated as 'Regeneration areas, where the schemes accords with the already adopted design codes within the Local Plan.

2.19 Mandatory net gain for biodiversity set as a condition of most new development and all new streets will be tree-lined.

2.20 NPPF updated to allow a degree of permitted development for Listed buildings and conservation areas for energy efficiency measures and autonomy for suitably experienced architects so that no Listed Building Consent is required.

2.21 The paper also proposes a "quicker and simpler framework for assessing environmental impacts".

Public Engagement

2.22 The White Paper promises "world class civic engagement" at the local plan-making stage, with a focus on digitisation facilitating easier public access to planning documents. These will be published online in standardised formats with "digitally consumable rules and data", allowing people to respond to consultations on their smartphones. Engagement of the public at planning application stage however, will be significantly reduced as a consequence.

Developer Contributions

2.23 Both Section 106 agreements and the CIL would be scrapped and replaced with a new infrastructure levy calculated as a fixed proportion of the value of developments, above a set threshold.

2.24 Allow Local Authorities to borrow against Infrastructure levy revenues so that they can forward fund infrastructure.

2.25 In the short term, the government has proposed that First Homes should make up a minimum of 25% of affordable housing secured through Section 106, up to the introduction of the new levy.

Housing targets

2.26 Local Authorities will be bound by targets set using a new "standard method" for calculating local housing need at a national level instead of the locally calculated need at present.

2.27 This new methodology will be based on how many existing homes there are in an area, the projected rise in households, and changes in affordability.

2.28 The new standard method will also be the vehicle for the distribution of the national housebuilding target of 300,000 new homes a year.

2.29 As a result of this change councils will no longer have a “duty to co-operate” with neighbouring authorities when developing local plans.

Design

2.30 A new body will be established to oversee creation of local design codes, and each local authority will be expected to employ a chief officer for design and place-making to oversee quality. Local design codes must have community input to be valid, using empirical evidence of what is popular and characteristic in the local area.

2.31 The government has also promised the imminent publication of a National Model Design Code “setting out more detailed parameters for development in different types of location: issues such as the arrangement and proportions of streets and urban blocks, positioning and hierarchy of public spaces, successful parking arrangements, placement of street trees, and high quality cycling and walking provision”.

2.32 In allocated Growth Areas individual site masterplans and codes will be drawn up by the Local Authority at local plan stage. Schemes that comply will be “fast-tracked”. In Renewal areas “pattern books” should be revived by allowing pre-approval of popular and replicable designs through permitted development.

Enforcement

2.33 As local planning authorities are “freed from many planning requirements” the government foresees that they will instead be able to focus more on enforcement across the planning system.

2.34 As such the consultation promises to “review and strengthen the existing planning enforcement powers and sanctions available to local planning authorities to ensure they support the new planning system” and “introduce more powers to address intentional unauthorised development, consider higher fines, and look to ways of supporting more enforcement activity”.

Delivering Change

2.35 In order to minimise disruption recently approved plans and existing permissions can continue as planned and they have already introduced new permitted development rights making it easier for businesses to change use and for new homes to be built on top of buildings as well as demolition and rebuild without the need for planning permission.

2.36 In addition they are also consulting on short term measures to:

- Change the standard method for assessing local housing need
- Securing First Homes through S.106
- Lifting the affordable housing threshold from 11 to 40 or 50 units
- Extending current Permission in Principle to major developments for housing sites

2.37 They will ensure that investment in new public buildings supports renewal and regeneration of town and city centres and explore how disposal of publicly owned land can support the SME and self-build sectors.

2.38 They will develop a comprehensive resources and skills strategy for the planning sector to support implementation.

3 Implications of the proposed changes

3.1 The notion of streamlining the local plan process in principle is welcomed but the proposals do not provide the detail to assess whether it will deliver positive outcomes, nor do they adequately explain how such streamlining can take place whilst simultaneously expanding public engagement at this stage and increasing the level of work by Local Planning Authorities to create masterplans and design codes as part of the plan. Removing the duty to co-operate will also remove the ability for infrastructure to be considered across boundary in a strategic way.

3.2 It is concerning that beyond the local plan stage community and member engagement does not form a prominent role which seems to run counter to the idea that the system will improve such engagement. Local planning Authorities should be empowered and adequately resourced to act as master developers ensuring local plans deliver real change but the extension of Permitted Development rights recently introduced and other measures will firmly erode this role. Recent changes to Permitted Development rights have prevented councils from being able to protect local residents against poor housing standards and poor quality places so it is disappointing to see such rights extended further. In addition the short term plan to increase the affordable housing threshold from 11 to 40 or even 50 will mean that there will be a significant drop in the number of affordable houses secured in West Lindsey/Central Lincolnshire as many of our housing sites are below this number.

3.3 Whilst having a single charge instead of S.106 and CIL is a good idea in theory the suggested mechanism (setting a minimum threshold below which it won't be charged) could see lower value areas where viability is often an issue such as West Lindsey/Central Lincolnshire securing very little if any funding. This will be a problem for all forms of necessary infrastructure but in particular will severely hinder our ability to deliver affordable housing. Local Authority borrowing against projected receipts is high risk as the sum collected for one scheme rarely pays for a whole piece of infrastructure, so it would require a financial leap of faith based on a series of assumptions and could lead to significant debt. There is also no mention of how non-financial requirements would be secured as

they are currently under S.106 such as the developer providing a school or other community facility in kind.

3.4 It is disappointing that with the exception of seeking to introduce a Biodiversity Net Gain as part of development the proposals do not go far enough to meet ambitious targets to reduce carbon emissions and affect climate change.

3.5 As councils would be forced to take account of every conceivable eventuality over a 10-year period while developing the new local plans and legally-binding long-term zoning allocations likely to lead to an increase in legal claims from landowners and developers who might see sites zoned unfavourably or undesirably– there is certainly scope within the proposals that rather than simplifying and accelerating the planning process, the White Paper may inadvertently create logjams where currently there are none.

3.6 Whilst additional engagement with residents at local plan stage is welcomed it will be very difficult to secure any form of consensus regarding good design as part of any design code work. The paper suggests looking at what is popular and what the area currently has as queues to influence the codes but in many instances neither of these things will lead to good quality design as popularity cannot be relied upon when the country is suffering a housing shortage, nor should reference be taken from many established areas in design terms if those areas are poor quality. It also fails to explain who arbitrates and has the final say on design. In addition using such a formulaic method will hamper innovation, variety and exemplars which are all needed to create high quality places.

3.7 Due to the position of our current local plan and the suggested transition arrangements Central Lincolnshire would be in the position where the current local plan review would run its course with implementation in early 2022, and almost immediately after that the new local plan creation would need to commence.

3.8 Setting the determination targets of 8 and 13 weeks as hard deadlines and reducing the ability of authorities to use extensions of time will result in more applications being refused as in almost every case the extensions are required to allow for further information from the applicants to be submitted and not because the LPA simply wants more time. As the proposal also includes an automatic fee rebate if refusals are then overturned at appeal this could also significantly increase the financial exposure to the council.

3.9 The paper fails to acknowledge the considerable time, expertise and resource required for LPAs to effectively masterplan sites at Local Plan stage and relying on a proportion of the Infrastructure Levy to cover such costs as suggested is unlikely to cover this cost. As submissions will not be allowed to exceed 50 pages to cover all aspects this will need to be front loaded by the LPA at significant cost and time. Archaeology,

contaminated land, flood risk assessments, biodiversity statements etc. will all need to be carried out at this stage before sites can be allocated.

3.10 Allowing qualified professionals the scope to carry out works to listed buildings is risky as work that is found to be inappropriate or not complying with the rules cannot simply be undone, any features damaged or removed would be lost forever. It is also impossible to create a set of rules for this as every building is different and the value of certain features differs also. Unscrupulous individuals could employ such professionals to achieve the outcome they desire.

3.11 There is no detail as to how the new enforcement powers would work in practice. The White Paper is silent on the use of expediency if the rules have been broken, and on whose interpretation of the rules count. Equally it does not explain how the LPA determines whether any breaches have been intentional.

4 Next steps

4.1 The consultation is open until October 29 2020. Subject to the outcome of the consultation, the government "will seek to bring forward legislation and policy changes" to implement its reforms acknowledging "we have not comprehensively covered every aspect of the system, and the detail of the proposals will need further development pending the outcome of this consultation".

4.2 The proposals will require primary legislation followed by secondary legislation and an updating of the National Planning Policy Framework.

4.3 At the time of drafting this report none of the key organisations within the sector have issued their formal response to the White Paper but the members of the Central Lincolnshire Joint Strategic Planning Committee have endorsed an officer report highlighting the same planning policy concerns of the White Paper and whilst as a Planning Policy body they will be submitting a formal response to the consultation it has also been agreed that each district will also submit their own response.

4.4 A workshop was offered to all members to attend to discuss the implications of the White Paper for West Lindsey, its communities and residents. This was held on 07th October and all discussion points and comments were collated and added to the West Lindsey response.

4.5 Appended to this report is the list of questions posed within the White Paper and the response to each question as suggested by officers and members at the workshop.